

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
) **MD Docket No. 16-166**
Assessment and Collection of)
Regulatory Fees for Fiscal Year 2016)

**Reply Comments of
NTCA–THE RURAL BROADBAND ASSOCIATION**

TO THE COMMISSION:

NTCA–The Rural Broadband Association (NTCA)¹ hereby submits reply comments in the above-captioned proceeding. In initial comments, NTCA expressed its support for updated full time employee (FTE) calculations in order to inform a more equitable distribution of regulatory fee responsibilities across the spectrum of industry participants. In these reply comments, NTCA addresses fees that are applicable to multichannel video programming distributors (MVPDs).

In 2015, the Commission created a new sub-category to collect fees from providers of Direct Broadcast Satellite (DBS) services.² This action was intended to recognize the work of

¹ NTCA is an industry association composed of nearly 900 rural local exchange carriers (“RLECs”). While these entities were traditional rate-of-return-regulated telecommunications companies and “rural telephone companies” as defined in the Communications Act of 1934, as amended, all of NTCA’s members today provide a mix of advanced telecommunications and broadband services, and many also provide video or wireless services to the rural communities they serve.

² See, *Assessment and Collection of Regulatory Fees for Fiscal Year 2015, Amendment of Part 1 of the Commission’s Rules; Assessment and Collection of Regulatory Fees for Fiscal Year 2014: Notice of Proposed Rulemaking, Report and Order, and Order*, Docket Nos. 15-121, 14-92, FCC 15-59, at para. 8 (2015).

Media Bureau Full Time Equivalent (FTEs) that affect the DBS industry. The initial fee was established at 12 cents per subscriber. In 2016, the Commission proposes to increase the fee to 27 cents.³ In contrast, the Commission proposes to assess a fee of \$1.00 per subscriber on cable TV and IPTV providers.⁴

AT&T and Dish Network each note correctly that the proposed increase is 125 percent.⁵ This is, on its face, a shocking number. But, when the data beneath the result is revealed to disclose that the actual increase would settle in at 15 cents per year, the outcome is quite underwhelming. It is also worth noting that the fee even *after* increase would still equal only 27 cents, as compared to the dollar proposed for cable TV and IPTV providers.

To be sure, NTCA supports as a general principle the need to avoid rate shock, and the advantages to both consumers and markets of reasonable transition periods to absorb changes and shifts in policies and their associated pecuniary impacts. And, NTCA is sensitive to the disruption that regulatory intervention, including regulatory fees, might visit under nascent and developing industries. In the instant matter, however, neither of these considerations apply.

In the first instance, the compelling percentage increase must be examined in light of the absolute impact. Toward this end, there exists a question as to whether a 27 cents annual fee for services that cost on average about \$100 per month⁶ would register significant notice on the

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2016: Notice of Proposed Rulemaking*, Docket No. 16-166, FCC 16-61, at para. 10, (2016).

⁴ *Id.*

⁵ *See, Comments of AT&T at 2; Comments of Dish Network, LLC, at 4.*

⁶ *See, Marsha Breen, "Cable and Satellite TV Costs Will Climb Again in 2016," NBC News (Dec. 22, 2015) (<http://www.nbcnews.com/business/business-news/cable-satellite-tv-costs-will-climb-again-2016-n484531>) (last viewed Jul. 1, 2016, 12:32); (*see, also*, "Leichtman Research*

Richter scale of rate shock.⁷ Moreover, it can hardly be argued that satellite video is a nascent service, considering the decades of available service from firms such as USSB, Primestar, Echostar, and Hughes. If anything, IPTV providers might be predicted to desire a shield from regulatory fees. And, yet, IPTV pays at the same rate as cable.

The Commission has recognized that DBS providers are “subject to regulation and oversight of the Media Bureau and should share in the Media Bureau FTE burden attributed to MVPDs.”⁸ DBS providers are subject to numerous regulations, including those implemented in response to the Commercial Advertisement Loudness Mitigation (CALM) Act⁹ and the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR).¹⁰ Accordingly, and consistent with its general interest in the equitable allocation of responsibility among regulated entities, NTCA supports modifications to align equitably the regulatory fees paid by DBS providers with those paid by cable and IPTV. Toward this end, NTCA commends the Commission to weigh the absolute, rather than percentage, costs of potential modifications.

Group, “83 Percent of U.S. Households Subscribe to Pay TV Service,” (Sep. 3, 2015) (<http://www.leichtmanresearch.com/press/090315release.html>) (last viewed Jul. 1, 2016, 12:27).

⁷ As AT&T notes, these fees would likely be passed along directly to the consumers who pay the month pay TV subscription rates. *See, Comments of AT&T*, at 3 (“ . . . it is a banal truism that businesses don’t pay taxes; people do.”) The impact of the 15 cents increase can accordingly be considered in light of the fact that nearly 80 percent of pay TV subscribers have an annual household income of at least \$50,000. *See, Leichtman Research, “More Than Five of Every Six TV Households Subscribe to a Pay-TV Service,”* (Sep. 2, 2014) (<http://www.leichtmanresearch.com/press/090214release.html>) (last viewed Jul. 1, 2016, 12:28).

⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013: Report and Order*, at para. 32, 28 FCC Rcd. 12351 (2013).

⁹ *Commercial Advertisement Loudness Mitigation Act*, Pub.L. 111-311, 111th. Cong. (2010).

¹⁰ *STELA Reauthorization Act*, Pub.L. 113-200, 113th. Cong. (2014).

WHEREFORE the reasons stated above, NTCA supports Commission efforts to implement updated categories and calculations to more equitably allocate regulatory fee responsibilities among the industry.

Respectfully submitted,



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